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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2015-0005]

RIN 0579-AE09

Importation of Citrus From Peru; Expansion of Citrus-Growing Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetable regulations to allow citrus fruit from the entire country of Peru into the continental United States. Currently, the regulations allow the importation of citrus fruit to the United States from five approved citrus-producing zones in Peru, subject to a systems approach. However, based on the findings of a pest list and commodity import evaluation document, we have determined that this systems approach also mitigates the plant pest risk associated with citrus fruit produced in all other areas of Peru. This action would allow the importation of citrus fruit from the entire country of Peru while continuing to provide protection against the introduction of plant pests into the continental United States.

DATES: We will consider all comments that we receive on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0005>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2015-0005, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0005> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 851-2242.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-71, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests within the United States.

Under § 319.56-41, grapefruit (Citrus paradisi), limes (C. aurantiifolia), mandarins or tangerines (C. reticulata), sweet oranges (C. sinensis), and tangelos (C. tangelo) may be imported into the United States from approved growing areas in Peru under a systems approach designed to mitigate the risk presented by four species of fruit flies (Anastrepha fracterculus, A. obliqua Macquart, A. serpentina, and Ceratitis capitata) and a Tortricid (Ecdytolopha aurantiana). The systems approach requires the following:

- The fruit must be accompanied by a permit issued in accordance with § 319.56-3(b);
- The fruit may be imported in commercial consignments only;
- The fruit must be grown in an approved growing area (Zone I, Piura; Zone II, Lambayeque; Zone III, Lima; Zone IV, Ica; Zone V, Junin);
- The production site where the fruit is grown must be registered for export with the national plant protection organization (NPPO) of Peru, and the producer must have signed an agreement with the NPPO of Peru whereby the producer agrees to participate in and follow the fruit fly management program established by the NPPO of Peru;
- The NPPO of Peru's fruit fly management program must be approved by the Animal and Plant Health Inspection Service (APHIS), must require participating citrus producers to allow APHIS inspectors access to production areas in order to monitor compliance with the fruit fly management program, and must follow certain trapping, control, and recordkeeping requirements;
- The fruit, except limes, must be cold treated for fruit flies in accordance with 7 CFR part 305;

- Each consignment of fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Peru stating that the fruit has been inspected and found free of E. aurantiana; and
- Citrus fruits imported from Peru are subject to inspection and sampling by an inspector at the port of first arrival into the United States in accordance with § 319.56-3(d), and if a single living fruit fly in any stage of development or E. aurantiana is found, the consignment will be held until an investigation is completed and appropriate remedial actions have been implemented.

The NPPO of Peru has requested that APHIS amend the regulations to allow citrus fruit from the entire country of Peru to be imported into the continental United States.

As part of our evaluation of Peru's request, we prepared a pest list, titled "Pest List for the Importation of Fresh Commercial Citrus Fruit: Grapefruit (Citrus x paradisi); Lime (C. aurantiifolia); Mandarin Orange, Tangerine, or Hybrids (C. reticulata); Sweet Orange (C. sinensis); and Tangelo (C. x tangelo) from Peru into the Continental United States" (November 2012). The pest list examines the plant pest risks associated with the importation of citrus from the entire country of Peru into the continental United States. The pest list identified the same four fruit flies and one Tortricid identified in the 2003 pest risk assessment for the importation of citrus from the five zones in Peru as potentially following the pathway of citrus fruit from the entire country of Peru to the United States.

Based on the pest list, we prepared a commodity import evaluation document (CIED), titled, "Expansion of Areas Allowed to Export Fresh Commercial Citrus Fruit Including Grapefruit (Citrus x paradisi); Lime (C. aurantiifolia); Mandarin Orange, Tangerine, or Hybrids (C. reticulata); Sweet Orange (C. sinensis); and Tangelo (C. x tangelo) from Peru into the

Continental United States” (November 2012), to assess the risks associated with the importation of citrus from the entire country of Peru and recommend mitigation measures to prevent the introduction and dissemination of plant pests and diseases of quarantine concern. The CIED recommends applying the systems approach in § 319.56-41 to citrus fruit from the entire country of Peru.

Based on the conclusions of the pest list and CIED, we are proposing to amend the regulations to allow the importation of citrus from the entire country of Peru into the continental United States under the systems approach in § 319.56-41. Specifically, we are proposing to remove paragraph (c), which contains the list of approved growing areas that are allowed to export citrus to the United States, and redesignate the subsequent paragraphs.

Currently, the regulations allow the importation of citrus from Peru into the United States, including Hawaii and the U.S. Territories. Between 2006 and 2012, Peru shipped small consignments to one U.S. Territory, Puerto Rico, but has never exported citrus fruit to Hawaii or the other U.S. territories. As a result, in preparing this rule, we asked the NPPO of Peru whether they intended to ship to markets in Hawaii and the U.S. Territories in the future. Peru indicated that they do not intend to do so, and that their request for market access could be limited to the continental United States. As a result, the pest list and CIED prepared for this proposed rule only evaluated the risk associated with the importation of citrus from Peru into the continental United States, which excludes Hawaii and the U.S. Territories. Therefore, we are proposing to amend the introductory text of the section to limit the importation of citrus from Peru to the continental United States.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

Currently, the regulations allow the importation of fresh grapefruit, lime, mandarin, orange, tangerine or hybrids, sweet orange, and tangelo from five approved citrus-producing zones in Peru to the United States. The proposed rule would allow the importation of these fruits from the entire country of Peru into the continental United States under the same conditions that are currently in place. The proposed rule is expected to increase the area in Peru approved to produce citrus for export to the United States to about 1,500 hectares over 3 years. Additional volumes of citrus expected to be shipped to the United States are 5,000 metric tons (MT) in the first year that the rule is in effect, 6,500 MT in the second year, and 8,000 MT in the third year. These quantities are equivalent to less than 1 percent of annual U.S. citrus production or U.S. citrus imports.

The primary entities that may be affected by the rule are citrus producers, citrus importers, and support industries such as packinghouses. Based on data from the 2012 Census of Agriculture and Small Business Administration small-entity standards, the majority of these operations are small.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow fresh citrus to be imported from Peru into the continental United States. If this proposed rule is adopted, State and local laws and regulations regarding fresh citrus imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2015-0005. Please send a copy of your comments to: (1) APHIS, using one of the methods described under ADDRESSES at the beginning of this document, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to amend the fruits and vegetables regulations to allow the importation of fresh citrus into the continental United States from Peru. As a condition of entry, the fruit would have to be produced in accordance with a systems approach that would include requirements for fruit fly trapping and monitoring, production sites, recordkeeping, and inspections designed to exclude quarantine pests. The fruit would also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the NPPO of Peru stating that the fruit has been inspected and found free of E. aurantiana. At the port of first arrival, an inspector will sample and cut citrus fruits from each consignment to detect pest infestation.

Allowing the importation of fresh citrus into the continental United States from Peru will require information collection activities, including permit applications to import plants or plant products, registered production sites and agreements, fruit fly trapping and control, trapping records, and phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 2.6 hours per response.

Respondents: NPPO of Peru, producers/growers, and importers.

Estimated annual number of respondents: 67.

Estimated annual number of responses per respondent: 14.

Estimated annual number of responses: 912.

Estimated total annual burden on respondents: 2,334 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2727.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2727.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.56-41 [Amended]

2. Section 319.56-41 is amended as follows:

a. In the introductory text, by adding the word “continental” between the words “the” and “United States”.

b. By removing paragraph (c).

c. By redesignating paragraphs (d) through (h) as paragraphs (c) through (g), respectively.

Done in Washington, DC, this 27th day of April 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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